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OCT 26 2005

OFFICE OF PETITIONS

In re Application of :
John F. Stoops et al :
Application No. 10/786,514 : DECISION GRANTING PETITIONS
Filed: February 24, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7616-US : AND 37 CFR 1.137(b)

This is a decision on the petitions under 37 CFR 1.137(b) and 1.313(c)(2), filed October 12, 2005, to revive the above-identified application and to withdraw this application from issue after payment of the issue fee, respectively.

The petition under 37 CFR 1.137(b) is **DISMISSED** as moot for the reasons stated below.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

DISCUSSION OF PETITION UNDER 37 CFR 1.137(b)

Petitioner states that this application became abandoned for failure to timely pay the issue fee on or before the due date of June 28, 2005.

A review of the file record discloses that the issue fee, the publication fee, and drawings as required by the Notices mailed March 28, 2005, were timely received on June 20, 2005. Therefore, this application did not become abandoned for failure to either timely pay the issue fee or to file drawings as required by the Notices mailed March 28, 2005. Accordingly, the petition under 37 CFR 1.137(b) is dismissed as involving a moot issue.

Since the petition to revive under 37 CFR 1.137(b) was unnecessary, the \$1,500 petition fee received will be refunded to petitioner's deposit account in due course.

DISCUSSION OF PETITION UNDER 37 CFR 1.313(c)(2)


Petitioner requests withdrawal of this application from issue for consideration of a submission (an Information Disclosure Statement) under 37 CFR 1.114.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114. See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2816 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.


Frances Hicks
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).